

**REMARKS**

Claims 7 and 8 have been amended to define the steps in the active, rather than the passive, mode. Claims 10-20 have been added to provide applicants with the protection to which they are deemed entitled. Claim 10 depends on claim 8, while claims 11 and 14 are new independent method claims and claims 17 and 19 are new apparatus claims.

Applicants traverse the rejection of claims 1-6, 8 and 9 under 35 U.S.C. 103(a) as being obvious as a result of Brilla et al. U.S. Patent 6,389,276 in view of Souissi et al. U.S. Patent 6,556,817. The Examiner relies on column 4, lines 28-35 of Brilla et al. for the disclosure of how to handle an uncompleted call. This portion of Brilla et al., as extended between lines 28 and 53 of column 4, indicates that the mobile telephone switching office (MTSO) forwards a calling party to an associated voicemail system that plays a personalized greeting, established by the mobile subscriber. The voicemail system records a message that the person trying to reach the mobile subscriber then supplies to the MTSO. The voicemail system sends to the MTSO an instruction to send a message to the mobile telephone, to notify the mobile subscriber of the recorded voice mail message. When the mobile telephone is active, the MTSO sends a page to the mobile telephone, to notify the subscriber that a call was received. If the mobile telephone is inactive the MTSO stores the page until the mobile telephone registers with the MTSO. In other words, this portion of Brilla et al. discusses the, by now quite conventional call forwarding system of mobile, i.e. cellular telephone systems.

As the Examiner admits, Brilla et al. does not disclose sending the recorded voice mail message to the mobile subscriber with a view to avoid peak traffic loadings of the mobile radio infrastructure. The reliance in the Office Action on Souissi et al. for the feature of transmitting a coil at a time determined with a view to avoid peak traffic loadings of a mobile radio infrastructure

is incorrect. Souissi et al. discloses a system wherein a mobile subscriber is advised of the incremental costs of a possible future communication as temporarily established by a system infrastructure of a mobile telephone system. The Souissi et al. abstract, and column 2, lines 46-56 indicate Souissi et al. is concerned with a system that informs system users in real-time of varying communication rates, to enable users to perform cost-benefit analysis immediately before initiating their communications. As indicated in column 3, lines 55-57, a user of a communication unit selects an appropriate time for his or her communication based on the priority of the communication as weighted against the potential costs of the communication.

Thus, Souissi et al. does not disclose passing a data message to a mobile entity over a data-capable bearer service at a time determined with a view to avoid peak traffic loadings of a mobile radio infrastructure. Instead, the user decides if he or she is willing to pay for the particular call that is about to be made, based on the current costs of calls.

The Souissi et al. concept is so different from the Brilla et al. concept, that one of ordinary skill in the art would not have combined them. It is against human nature for a user of the Brilla et al. voice mail system, which responds to calls from a mobile subscriber who has missed a call, to use the Souissi et al. cost advising feature.

For the foregoing reasons, the rejection of claim 1, upon which claims 2-9 depend, is clearly erroneous. The Hickman reference, U.S. Patent Publication 2001/0033564, relied on to reject dependent claim 7, fails to cure the foregoing defects in the rejection based on Brilla et al. in combination with Souissi et al.

New independent claim 11 distinguishes over the art of record by requiring a service system to transfer an uncompleted voice call made towards a mobile entity and to form the uncompleted call into a data message addressed to the mobile entity and subsequently passing the data message to

the mobile entity over a data capable bearer service of a mobile radio infrastructure without a call being made from the mobile unit. The foregoing combination of steps is not disclosed or made obvious by the art of record. Apparatus claim 19 also includes the requirement for transmitting the data message without a call being made from the mobile unit.

Independent claims 15 and 17 require the data message to be passed at a time of non-peak traffic loading of the mobile radio infrastructure.

Claims 17 and 19 are directed to an apparatus for enabling an audio message to be transferred to a mobile entity across a mobile radio infrastructure. The apparatus includes a receiver for an uncompleted voice call made towards the mobile entity. A processor for forming the uncompleted call into a data message addressed to the mobile entity is required. A memory is required to store the data message and a transmitter is required to retrieve the stored data message and transmit the retrieved stored data message toward the mobile entity via a data-capable bearer service of the mobile radio infrastructure. The foregoing combination with the previously discussed features of claims 17 and 19 is not found in the art of record. Claim 18 requires the transmitter to be arranged for transmitting the retrieved stored data message without a call being received by the apparatus from the mobile entity.

The foregoing features of the newly-added claims are not disclosed or made obvious by the art of record.

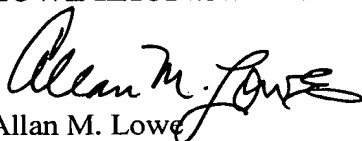
In view of the foregoing amendments and remarks, favorable reconsideration and allowance are respectfully requested.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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